

EXHIBIT H

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 07 Civ. 2735(DC)

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4 SOMPO JAPAN INSURANCE COMPANY OF
5 AMERICA, and SOMPO JAPAN INSURANCE,
6 INC.,

7 Plaintiffs,

8 vs.

9 NORFOLK SOUTHERN RAILWAY COMPANY,
10 NORFOLK SOUTHERN CORPORATION, and
11 THE KANSAS CITY SOUTHERN RAILWAY
12 COMPANY,

13 Defendants.

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16 Deposition of HOSHIZAKI ELECTRIC
17 COMPANY LIMITED, by YOSIYUKI IWAKI, taken
18 at the office of Sompo Japan Insurance
19 Company Of America, Two World Financial
20 Center, 225 Liberty Street, New York,
21 New York, on November 5, 2008 at 9:00 a.m.,
22 pursuant to F.R.C.P. 30(b) (6) and Notice,
23 before Robert M. Levine, a Shorthand Reporter
24 and Notary Public of the State of New York.

25

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<p>1 APPEARANCES: 2 3 MALOOF, BROWNE & EAGAN, LLC 4 Attorneys for the Plaintiffs and witness 5 411 Theodore Fremd Avenue, Suite 190 6 Rye, New York 10580 7 (914) 921-1200 8 BY: THOMAS EAGAN, ESQ., 9 JACQUELINE JONES, ESQ. 10 11 KEENAN COHEN & HOWARD, P.C. 12 Attorneys for Defendants 13 One Pitcairn Place, Suite 2400 14 165 Township Line Road 15 Jenkintown, Pennsylvania 19046 16 (215) 609-1110 17 BY: ALFONSO GAMBONE, ESQ. 18 19 ALSO PRESENT: 20 FRANCES SEEDS, 21 Japanese Interpreter 22 23 24 25</p>	<p>2 1 F R A N C E S S E E D S, called as the 2 official interpreter in this matter, was duly 3 sworn by the Notary Public (Robert M. Levine) 4 to accurately and faithfully translate the 5 questions propounded to the witness from 6 English into Japanese and the answers given 7 by the witness from Japanese into English. 8 Y O S I Y U K I I W A K I, being first duly 9 sworn by the Notary Public (Robert M. 10 Levine), testified as follows: 11 THE REPORTER: Full name and 12 address for the record. 13 THE WITNESS: My name is Yosiyuki 14 Iwaki. Y-o-s-i-y-u-k-i I-w-a-k-i. And I am 15 living in Matsue City in Shimane, 16 S-h-i-m-a-n-e, Prefecture in Japan. 17 MR. EAGAN: Just some 18 <u>preliminaries. The witness is here today</u> 19 <u>through a notice of deposition which the</u> 20 <u>plaintiff has served which we'll mark as</u> 21 <u>Exhibit 1. And also here, inclusive of that,</u> 22 <u>for certain 30(b)(6) topics for the notice of</u> 23 <u>deposition which the defendant has been</u> 24 <u>served. And I'm referring to the third</u> 25</p>
<p>1 IT IS HEREBY STIPULATED AND 2 AGREED, by and between the attorney for the 3 respective parties herein, that the sealing, 4 filing and certification of the within 5 deposition be waived; and sworn to before an 6 officer authorized to administer an oath, with 7 the same force and effect as if signed and 8 sworn to before the officer before whom said 9 deposition is taken. 10 IT IS FURTHER STIPULATED AND 11 AGREED that all objections, except as to form, 12 are reserved to the time of trial. 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>3 1 Yosiyuki Iwaki 2 <u>amended notice of deposition, topic 15, topic</u> 3 <u>20, topic 29, and, to some extent, topic 19.</u> 4 We'll mark the notice of 5 deposition as Exhibit 1. 6 (Notice of deposition to Yosiyuki 7 Iwaki marked Hoshizaki Exhibit 1-A for 8 identification as of this date.) 9 MR. EAGAN: Also attorneys for 10 the plaintiffs Sompo Insurance Company of 11 America and Sompo Japan Insurance, Inc.. And 12 we also represent the witness for the purpose 13 of the deposition. 14 Mr. Iwaki. 15 THE WITNESS: Yes. 16 MR. EAGAN: Have you ever been 17 deposed before? 18 THE WITNESS: I have not. 19 MR. EAGAN: I'm going to ask you 20 a series of questions. And the other lawyer 21 will also be asking you some questions as 22 well. 23 THE WITNESS: Yes. 24 MR. EAGAN: If you do not 25 understand a question, please say so.</p>

<p>1 Yosiyuki Iwaki 2 THE WITNESS: Yes. 3 MR. EAGAN: We will try to 4 rephrase it in a better way so you're able to 5 understand. 6 THE WITNESS: Yes. I understand. 7 MR. EAGAN: And if at any point 8 during the deposition you need to take a 9 break to have a drink of water, to use the 10 rest room, just please say so and we'll 11 accommodate the request. 12 THE WITNESS: Yes. I understand. 13 MR. EAGAN: All right. Thank 14 you. 15 THE WITNESS: So I'm allowed to 16 have some water while the proceedings are 17 going on? 18 MR. EAGAN: Yes, you may.</p> <p>19 EXAMINATION BY MR. EAGAN: 20 Q. Mr. Iwaki, by whom are you employed? 21 A. I am currently working at Hoshizaki 22 Electric Company Limited. 23 Q. <u>Is there a particular location of that</u> 24 <u>company where you work?</u> 25 A. I am working at Hoshizaki Electric</p>	<p>6 Yosiyuki Iwaki 7 Q. And you've been at the Shimane plant 8 since 2000? 9 A. No. I have been working at the Shimane 10 factory since I entered the company. 11 Q. Oh, since 1988? 12 A. Yes, that's correct. 13 Q. There's a reference to a GA department. 14 What is that? 15 A. It is general affairs. 16 Q. Could you just give us a very general 17 outline of what the general affairs department does? 18 A. General affairs handles the various 19 administrative work in the factory as well as 20 finance work as well as Human Resources work. 21 Q. Since December of 2005, you were the 22 manager of the production control department until 23 June of 2007? 24 A. No. I was manager. 25 Q. Now you're manager of the production control department? 26 A. Yes, that's correct. 27 Q. What were your duties as the manager of 28 the production control department? 29 A. You mean the work that I engage myself</p>
<p>1 Yosiyuki Iwaki 2 <u>Company Limited's Shimane plant.</u> 3 Q. And is Shimane a city in Japan? 4 A. <u>It is a prefecture in Japan.</u> 5 Q. Now, I'm going to place in front of you 6 an exhibit binder. And we will go through some of 7 them today. I ask if you could just turn to Exhibit 8 No. 9. 9 A. Yes. 10 Q. Is this your curriculum vitae? 11 A. Yes. It is my curriculum vitae. 12 Q. In addition to your work history on 13 there, did you receive any degrees from 14 universities? 15 A. Yes. I have graduated from university. 16 Q. What's the name of that university? 17 A. The current name of it is Hyogo, 18 H-y-o-g-o, Prefectural University. 19 Q. What year did you obtain your degree? 20 A. I graduated in 1981. 21 Q. What was your degree in? 22 A. My major was in economics. 23 Q. Now, you first began work for Hoshizaki 24 in 1988? 25 A. That's correct. Yes.</p>	<p>7 Yosiyuki Iwaki 8 with? 9 Q. Yes. 10 A. As far as the primary content of the 11 work is concerned, it would be, first of all, 12 receiving the sales, the information pertaining to 13 orders from the sales department and checking the 14 requests against the inventory at the factory. And 15 making a determination as to how many of each model 16 type product needs to be produced in addition to 17 what's available in the inventory. 18 The second work that I engage myself in 19 has to do with the procurement of materials and 20 parts that are necessary in order to provide support 21 for the production activities that are being carried 22 out at the factory. 23 Q. <u>What is the business of Hoshizaki</u> 24 <u>Electric?</u> 25 A. The business of Hoshizaki Electric is to manufacture and to sell commercial kitchen equipment and appliances. 22 Q. <u>Could you give us some examples of the</u> 23 <u>type of appliances?</u> 24 A. <u>Yes. Icemakers, sushi cases, and</u> 25 <u>commercial purpose refrigerators.</u></p>

<p>1 Yosiyuki Iwaki 2 Q. What products are manufactured at the 3 Shimane plant? 4 A. The main products that are produced at 5 the Shimane factory are the icemakers, the sushi 6 cases, and the table-type commercial refrigerators. 7 Q. And just ask if you could turn to 8 what's been marked as Exhibit 5. It lists certain 9 types of sushi cases and certain types of icemakers 10 on the document. 11 Do you see that? 12 A. Yes. 13 Q. <u>Are these types of sushi cases and</u> 14 <u>icemakers manufactured at the Shimane plant?</u> 15 A. <u>Yes, that's correct. Those sushi cases</u> 16 <u>and icemakers that are listed here are those that</u> 17 <u>are manufactured at the Shimane factory.</u> 18 Q. For approximately how many years has 19 Hoshizaki manufactured sushi cases? 20 A. I don't have the accurate figures. 21 However, I believe that it would be a bit over 20 22 years, approximately, for sushi cases. 23 Q. Have they manufactured sushi cases ever 24 since you joined the company? 25 A. That's correct.</p>	<p>10</p> <p>1 Yosiyuki Iwaki 2 things by speaking with the person or persons in 3 charge of the final inspection of the product before 4 it is to be shipped out. And had heard from the 5 person or persons regarding the state of the 6 product, the content of the products, as well as 7 also referring to documents that pertained to those 8 products. 9 Q. What department within the plant 10 performs what we'll call a quality check of the 11 units before they leave the factory? 12 A. Well, it would be the inspection 13 section of the quality assurance department. 14 Q. Is there a Mr. Hara who works in that 15 department? 16 A. Yes. There is a manager by the name of 17 Mr. Hara. 18 Q. And is there a Mr. Esumi who also works 19 in that department? 20 A. Yes. There is a Mr. Esumi, E-s-u-m-i. 21 And he is superior to Mr. Hara. And he is the 22 manager of the quality assurance department. 23 Q. Is that part of the inspection 24 department? 25 A. Rather, it is the inspection section</p>
<p>11</p> <p>1 Yosiyuki Iwaki 2 Q. The sushi cases of the models that are 3 listed on this Exhibit 5, approximately how many 4 years has Hoshizaki been manufacturing them? 5 A. As far as these type models are 6 concerned, I think it would be about five years. 7 Q. For how many years has Hoshizaki been 8 producing icemakers? 9 A. I have heard that as far as icemakers 10 are concerned, that they have been manufactured by 11 our company for approximately 40 years. 12 Q. Have they manufactured icemakers ever 13 since you joined the company? 14 A. That's correct. 15 Q. In your position in 2005 and 2006 at 16 Hoshizaki, you've become familiar with the type of 17 icemakers and sushi cases that are listed on Exhibit 18 5? 19 A. That's correct. 20 Q. Referring to the period now in 2006. 21 A. Yes. 22 Q. What steps, if any, did Hoshizaki take 23 to ensure that the icemakers and sushi cases leaving 24 the plant were in good operating order? 25 A. Yes. I was able to learn about these</p>	<p>13</p> <p>1 Yosiyuki Iwaki 2 which is part of the quality assurance department. 3 Q. What type, if any, of inspection does 4 the inspection department perform? 5 A. There would be an inspection done by 6 the inspection section as to the various items that 7 need to be checked for; such as, whether the product 8 is in a good operational state and if it can be 9 operated correctly or not. 10 Q. If you could turn to what we've marked 11 as Exhibit 1. 12 First of all, could you identify what's 13 been marked as Exhibit 1? 14 A. This is a product inspection 15 certificate that was issued by the inspection 16 section of our quality assurance department. 17 Q. Does that document set forth the type 18 of tests that are done by the inspection department 19 on each machine before leaving the factory? 20 A. Yes. That's correct. 21 Q. So, for instance, they checked the 22 insulation resistance, the outer view construction. 23 They perform a pressure test. 24 These type of items that are listed? 25 A. Yes, that's correct.</p>

	22		24
1	Yosiyuki Iwaki	1	Yosiyuki Iwaki
2	it.	2	determination made as to what type of carton to put
3	Q. What group of products does it refer	3	the particular types of products?
4	to?	4	A. Yes.
5	A. I don't quite understand what you mean	5	Q. Please describe.
6	by "what group of products."	6	A. With regard to each product that is
7	If you could please rephrase your	7	produced, beginning with the design stage, the
8	question in a manner that I would be able to	8	design department would not only design the product,
9	understand, please.	9	but would also design the packaging for the product.
10	Q. Sure.	10	And the final determination as to the appropriate
11	If I can, just by way of explanation,	11	packaging of the product would be made by conducting
12	if you can refer to what's been marked as Exhibit A	12	various tests. Examples of which are the vibration
13	which you were referring to earlier in the case?	13	test where the products are loaded onto a vehicle.
14	A. Yes.	14	And we check to see how much of a vibration, the
15	Q. Do the inspection certificates which	15	packaged product can withstand.
16	have been marked as Exhibit 1 refer to the items	16	There is also another test where the
17	which are listed on Exhibit 5?	17	products are loaded onto the trucks and carried to a
18	A. Yes. That is correct.	18	remote location. And we would check to see whether
19	Q. Could you tell us what the next step is	19	the packaging was able to withstand that
20	after a product is manufactured at the Shimane	20	transportation to the remote location. And we would
21	factory?	21	then grasp the tolerance level of the product that
22	What happens next in the process?	22	is packaged for transportation.
23	A. The next step would be that at the	23	And a final determination would be made
24	factory, once the product is finished, that it would	24	as to the appropriate packaging of the product.
25	then be passed on to the logistics department and	25	Q. Was such determination made with
	23		25
1	Yosiyuki Iwaki	1	Yosiyuki Iwaki
2	would go to the warehouse of the logistics	2	respect to the types of packaging which was used on
3	department. And the logistics department based upon	3	the machines at issue in this litigation?
4	the guidance that they receive from the sales	4	A. Yes. That is correct. Those
5	department with regard to the shipment, that is to	5	considerations began at the design phase and went
6	say, where the products need to be shipped, how many	6	all the way to the final transport stage. And a
7	units of what type of products need to be shipped,	7	determination was made.
8	once this information is received, from the sales	8	(Report to overseas operation
9	department at the logistics department, they would	9	department marked Hoshizaki Exhibit 2 for
10	then be responsible for shipping out the products.	10	identification as of this date.)
11	Q. And some point are the units put into	11	(English translation of Exhibit 2
12	cartons at the factory?	12	marked Hoshizaki Exhibit 3 for identification
13	A. At the same time that the inspection is	13	as of this date.)
14	conducted. Once it is completed, then it would be	14	Q. I'm going to show you what we've marked
15	put into a carton, the product.	15	as Exhibit No. 2. And ask if you can identify that
16	Q. Are you familiar with the type of	16	document.
17	cartons that were utilized to pack these particular	17	MR. EAGAN: Just for the record
18	type of sushi cases and icemakers?	18	Exhibit 3 is an English translation of
19	A. I do know.	19	Exhibit 2.
20	Q. Please describe them.	20	A. As far as 2 is concerned, this is the
21	A. The product would be placed in a	21	report to the overseas operation department that the
22	cardboard box. And would be packaged with	22	specific type models with the numbers as follows
23	insulating material; in this case, foam polystyrene.	23	were shipped.
24	And it would be packaged in that manner.	24	Q. This is called a shipping report?
25	Q. Do you know whether there was a	25	A. Shipping report.

<p style="text-align: right;">30</p> <p>1 Yosiyuki Iwaki 2 litigation, we have asked Sumittrans, 3 S-u-m-i-t-r-a-n-s, to handle these matters as our 4 export company. 5 (Fax transmission on the 6 letterhead of Shousen Koun marked Hoshizaki 7 Exhibit 4 for identification as of this 8 date.) 9 Q. If you could turn to what we've marked 10 as Exhibit 4. 11 MR. EAGAN: By the way, before we 12 go on, does anybody need a break? 13 THE WITNESS: Shall we? 14 MR. EAGAN: If you prefer, yes. 15 Just want to take five minutes? 16 THE WITNESS: Yes, please. 17 MR. EAGAN: Five minutes, okay. 18 (Short recess.) 19 BY MR. EAGAN: 20 Q. Referring to what has been marked as 21 Exhibit 4, is this a document which was received by 22 Hoshizaki? 23 A. I think so. 24 Q. If you look at what's been Bates 25 stamped at the bottom 147, you see at the bottom</p>	<p style="text-align: right;">32</p> <p>1 Yosiyuki Iwaki 2 by Sumittrans, that we do not know in our company of 3 the details as to what happens with those 4 procedures. 5 Q. What was the name of the person in the 6 overseas operations department? 7 A. It would be a person in charge by the 8 name of Yoshii, Y-o-s-h-i-i. 9 Q. Now, have you learned whether Hoshizaki 10 provided any instructions to Sumittrans regarding 11 these stuffing of the cartons into the container? 12 A. Similarly, Mr. Yoshii, who is with the 13 overseas operation department had said to me that 14 when Sumittrans is asked to pack the container, that 15 there be a band put around the product so that the 16 products would not fall over. And also, not to 17 place irregularly sized boxes above the uniform size 18 boxes below, so as to make it unstable. 19 (Packing list marked Hoshizaki 20 Exhibit 5 for identification as of this 21 date.) 22 Q. I'm going to show you what we've marked 23 as Exhibit 5 which you referred to before. But I 24 ask if you could identify that document? 25 A. This is a packing list.</p>
<p style="text-align: right;">31</p> <p>1 Yosiyuki Iwaki 2 there is some fax information. 3 Can you read the name of the company on 4 that fax which sent the fax? 5 A. The name of the company would be 6 Shousen, S-h-o-u-s-e-n, Koun, K-o-u-n. And it was 7 sent on March 23, 2006 it says. 8 Q. Are you familiar with the Shousen Koun 9 company? 10 A. I do not know the details. However, I 11 had heard from Mr. Fujihara, whom I had referred to 12 in my earlier testimony, that he had said to me that 13 every time there would be an export that would be 14 made from Kobe port, that our products would first 15 be transferred to Shousen Koun's warehouse. 16 Q. And would they be put in the container 17 at the Shousen warehouse? 18 A. I think that perhaps that might be the 19 case. But as for that, I am not really familiar 20 with the details. 21 Q. Is that because Hoshizaki relied on 22 Sumittrans to take care of the stuffing of the goods 23 into the container? 24 A. I had heard from our overseas operation 25 department that as for the export which is handled</p>	<p style="text-align: right;">33</p> <p>1 Yosiyuki Iwaki 2 Q. Who prepares the packing list? 3 A. Our overseas operations department 4 would create this. 5 Q. Is this type of document created every 6 time Hoshizaki Electric ships product? 7 A. I have heard that every time there is 8 to be an export, that this document would be 9 prepared. 10 Q. It's a document that Hoshizaki 11 maintains in its files in the ordinary course of its 12 business? 13 A. It is a document that is created when 14 there is to be an overseas shipment activity. And 15 after it is created it would be maintained. 16 (Copy of an invoice marked 17 Hoshizaki Exhibit 6 for identification as of 18 this date.) 19 Q. If you could turn to Exhibit No. 6 and 20 ask if you could identify that document? 21 A. This is an invoice. 22 Q. Does the invoice relate to a particular 23 shipment? 24 A. This is an invoice which was created 25 when the ship was loaded with the products that were</p>

<p>1 Yosiyuki Iwaki 2 are typically kept by your company with regards to 3 your units. 4 A. When the products are inspected, the 5 inspection records a pass or fail would be marked 6 regarding that product that is inspected. 7 Q. How is that documented? What document 8 is created? 9 A. In the ISO standards the inspection 10 records are included therein. So that is also 11 included. 12 Q. So, was Exhibit 1 created strictly for 13 this litigation; not normal course of business? 14 MR. EAGAN: Objection in that it 15 calls for the witness to make a legal 16 conclusion. 17 MR. GAMBONE: What I'm asking the 18 witness is, is this document described in 19 Exhibit 1 a document created in the normal 20 course of business regardless of litigation? 21 MR. EAGAN: The witness had 22 testified earlier that it was prepared when 23 the customer requests. 24 A. Yes, that's correct. 25 Q. So, it was created for the purposes of</p>	<p>54</p> <p>1 Yosiyuki Iwaki 2 the logistics department. However, as far as the 3 logistics department is concerned, there is a person 4 in charge there. 5 Q. Who is that person? 6 A. Well, you're asking about the person 7 who is responsible or the person who handles the 8 matter? 9 Q. Both. 10 A. At that time as to whom those persons 11 were, I do not know right now as I sit here. 12 Q. When the trucking company transported 13 the freight to the dock from your facility, no one 14 from your company participated in that movement; is 15 that correct? 16 A. No, we did not have that. 17 MR. EAGAN: Reread the question. 18 (Question read.) 19 Q. So there is no one from your company 20 that could testify as to the conditions of the goods 21 when they were loaded onto the ships; is that 22 correct? 23 MR. EAGAN: Objection. What the 24 conditions of the goods are is one thing. 25 Whether someone saw the container being</p>
<p>1 Yosiyuki Iwaki 2 this litigation? 3 MR. EAGAN: Objection. 4 Q. Describe the movement of the freight 5 from your company's facility using the Nihon trucks, 6 I'm sorry, as a joint activity; is that correct? 7 A. That's correct. 8 Q. Can you describe what you mean by 9 "joint activity"?</p> <p>10 A. What I meant by joint activity was that 11 when the products are to be loaded onto the truck, 12 then our company employees, together with the Nihon 13 truck employees would both be there making certain 14 that it is being loaded onto the truck.</p> <p>15 Q. Who supervises that activity?</p> <p>16 A. The department that would be in charge 17 of that would be the logistics department.</p> <p>18 Q. Who in the logistics department would 19 have supervised that joint activity?</p> <p>20 THE INTERPRETER: May I just 21 confirm with the witness a portion of his 22 answer, please?</p> <p>23 Thank you very much. I've been 24 able to confirm.</p> <p>25 A. I'm not sure who it might have been in</p>	<p>55</p> <p>1 Yosiyuki Iwaki 2 loaded is a separate issue. I think it's a 3 confusing question.</p> <p>4 MR. GAMBONE: We'll still ask 5 that he answer that question over objection. 6 Could we have the question read 7 back.</p> <p>8 (Question read.)</p> <p>9 A. Yes. That is correct. There is no one 10 who has confirmed that there.</p> <p>11 Q. And neither Exhibits 5 nor Exhibit 6 12 give a description of the condition of the goods at 13 that point; is that correct?</p> <p>14 MR. EAGAN: Objection. I'm 15 confused.</p> <p>16 MR. GAMBONE: Exhibit 5 and 17 Exhibit 6 are invoices; is that right?</p> <p>18 MR. EAGAN: And the packing list.</p> <p>19 Q. And neither one of those exhibits are 20 describing the conditions of the goods; is that 21 right?</p> <p>22 MR. EAGAN: Objection. The 23 document does describe.</p> <p>24 MR. GAMBONE: <u>Counsel, can I ask</u> 25 if the plaintiff will be designating a</p>

<p>1 Yosiyuki Iwaki 2 witness to testify as to the condition of the 3 <u>goods at the dock or the rail origin?</u> 4 MR. EAGAN: No. We've already 5 advised to that as to those <u>areas</u> there is no 6 <u>knowledge.</u> 7 MR. GAMBONE: Okay. 8 Q. Sir, can I ask, what is your 9 understanding of Exhibit 7? 10 A. I think that this is a document that is 11 issued by Sumitrans, letting us know that our 12 products have been loaded. And it is proof of that. 13 Q. And did you speak to the producer who 14 produced this document? 15 MR. EAGAN: The person at 16 Hoshizaki? 17 MR. GAMBONE: No, the person at 18 Sumitrans. 19 A. No. I have not spoken with a person at 20 Sumitrans. 21 Q. Just to clarify, sir, you cannot 22 testify to the condition of the freight at the rail 23 origin point in the United States; is that correct? 24 MR. EAGAN: Objection. It's 25 unclear. Was he personally there? That's</p>	<p>58</p> <p>1 Yosiyuki Iwaki 2 MR. GAMBONE: It hasn't been 3 established. 4 MR. EAGAN: Once it leaves it's 5 under, you know, Sumitrans, under Yang Ming, 6 under Norfolk Southern, or any intermediate 7 railroad. There was nothing there that can 8 say at each point who would know that. We've 9 said that from day one. 10 BY MR. GAMBONE: 11 Q. Sir, can you describe for me the 12 procedure that your insurance company requires you 13 to follow with regards to your claim that you filed? 14 MR. EAGAN: Objection. He has 15 not been designated as a 30(b)(6) on that 16 subject. But you can answer. 17 MR. GAMBONE: It's No. 18, 18 compensation on damages. 19 MR. EAGAN: Earlier on the case 20 during the depositions of the surveyors, I 21 forgot the gentleman's name, but he was 22 designated as the 30(b)(6) for that topic 23 prior to this deposition. 24 MR. GAMBONE: But it was my 25 understanding that he was going to testify</p>
<p>59</p> <p>1 Yosiyuki Iwaki 2 one thing but -- 3 MR. GAMBONE: He was designated 4 as the designee. So he could acquire the 5 knowledge. That's all I'm asking him. 6 MR. EAGAN: Acquire the knowledge 7 from who? 8 MR. GAMBONE: He can acquire the 9 knowledge by asking. Under 30(b)(6) it is 10 permitted to acquire the knowledge through 11 documents or speaking to someone. 12 MR. EAGAN: Right. 13 MR. GAMBONE: It doesn't need to 14 be firsthand knowledge. 15 MR. EAGAN: But we have already 16 advised that no one at Hoshizaki has 17 knowledge as to condition at the discharge 18 port, at the rail origin. Anything other 19 than that. 20 MR. GAMBONE: Who would have that 21 knowledge? 22 MR. EAGAN: We don't know. 23 Hoshizaki would not know. 24 MR. GAMBONE: Would Sompo know? 25 MR. EAGAN: No. Nor Sompo.</p>	<p>61</p> <p>1 Yosiyuki Iwaki 2 regarding No. 18 today; is that correct? 3 MR. EAGAN: No. 18, no. If I 4 did -- 5 MR. GAMBONE: I have marked 15, 6 18, 20 and 29. It's 15, 19. 7 MR. EAGAN: And 19 was qualified 8 from origin to the load port. Because that's 9 all Hoshizaki has knowledge of. 10 MR. GAMBONE: I'm going to still 11 ask him to testify about it. 12 MR. EAGAN: Whether he has any 13 knowledge about it? 14 MR. GAMBONE: Yes. 15 Can we get that question read 16 back. 17 (Question read.) 18 MR. EAGAN: Same objection. But 19 go ahead. 20 A. I'm not sure what you mean by the 21 procedure. 22 Q. Did they require you to submit any 23 documents to them? 24 A. With regard to this matter? 25 Q. Yes.</p>

<p>1 Yosiyuki Iwaki 2 spot-checking? 3 A. What I meant by spot-checking earlier 4 in my testimony had to do with how I had looked at 5 the items that had passed on this inspection 6 certificate in this exhibit and compared it to the 7 inspection records which were the basis of what was 8 written here. And looked to see whether they 9 conformed to one another. They were consistent with 10 one another or not. That's what I meant by 11 spot-checking.</p> <p>12 Q. And those records that you're referring 13 to are only the records which are created when they 14 are requested by a customer that they be created; 15 isn't that right?</p> <p>16 MR. EAGAN: Objection. That 17 wasn't the testimony.</p> <p>18 MR. GAMBONE: Well, he testified 19 that the records were created upon a 20 customer's request. So that's what he 21 testified to.</p> <p>22 MR. EAGAN: Let's just clarify. 23 There are just certain terms of art that he's 24 using here.</p> <p>25 MR. GAMBONE: Okay.</p>	<p>78</p> <p>1 Yosiyuki Iwaki 2 he had received from the overseas operations 3 department of our company. So he created that based 4 on the request from that department. And he had 5 hypothesized that possibly the request might have 6 come from Sompo Japan.</p> <p>7 MR. GAMBONE: Okay. All right. 8 That's all the questions that I have.</p> <p>9 BY MR. EAGAN:</p> <p>10 Q. <u>Just a couple of follow-up.</u> 11 <u>What's the distance from your plant to</u> 12 <u>Kobe?</u></p> <p>13 A. <u>It's about, roughly, 250 kilometers.</u></p> <p>14 Q. Finishing up with this Exhibit 1. 15 Now, you talked before about the 16 inspection records and inspection reports. Those 17 documents are created at the time of the actual 18 inspection by the person in the Hoshizaki inspection 19 department; is that correct?</p> <p>20 A. Yes. That is correct.</p> <p>21 Q. Those documents, the inspection 22 reports, inspection records, they're created every 23 time a unit is manufactured; is that correct?</p> <p>24 A. Yes. That is correct for each and 25 every unit that is produced based on the model</p>
<p>1 Yosiyuki Iwaki 2 MR. EAGAN: Inspection 3 certificates is the document that we're 4 referring to as Exhibit 1. Inspection 5 reports or records, or the underlying 6 documents?</p> <p>7 If the witness can help clarify, 8 the underlying documents, are they referred 9 to as reports or records?</p> <p>10 THE WITNESS: I do apologize. It 11 seems as if inspection records is the correct 12 way to refer to them. However, there are 13 times when we might sometimes refer to the 14 inspection records as the inspection reports.</p> <p>15 MR. EAGAN: Reports and records 16 are initial documents. Certificate is this 17 particular exhibit.</p> <p>18 MR. GAMBONE: Okay.</p> <p>19 BY MR. GAMBONE:</p> <p>20 Q. So these certificates, and this is a 21 question for him, were created upon the request of 22 Sompo; is that correct?</p> <p>23 A. What I had heard from Mr. Hara was that 24 he had prepared this document. And it was a 25 document that was prepared based on the request that</p>	<p>79</p> <p>1 Yosiyuki Iwaki 2 manufacturing numbers which are given to each and 3 every product.</p> <p>4 Q. One thing I didn't ask before. 5 You were asked some questions about 6 dates, I believe, when the units arrived at the load 7 port. And you answered you didn't know off the top 8 of your head, but if you had documents you might be 9 able to find out.</p> <p>10 I just want to show you Exhibit 7. 11 Are you able to determine from that 12 document the date which the goods were delivered to 13 Kobe?</p> <p>14 A. The day that it arrived at Kobe port?</p> <p>15 Q. Yes.</p> <p>16 A. Because this is not a document that I'm 17 used to seeing on a daily basis in the course of my 18 work. I don't really know.</p> <p>19 Q. Is there any date listed on the 20 document?</p> <p>21 A. I'm thinking maybe there is no date 22 that shows when the products arrived at Kobe port.</p> <p>23 Q. You're not fluent in the English 24 language, correct?</p> <p>25 A. That's correct.</p>